

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**BRIAN ZIMMERMANN and
JAMIE ZIMMERMANN,**

Plaintiffs,

vs.

SCOTT LABISH, et al.,

Defendants.

2:22-CV-12338-TGB-APP

HON. TERRENCE G. BERG
HON. ANTHONY P. PATTI

**ORDER EXTENDING
DEADLINE FOR
OBJECTIONS TO REPORT
AND RECOMMENDATION**

On May 12, 2023, Magistrate Judge Anthony P. Patti provided this Court with a Report and Recommendation (ECF No. 38) recommending that Defendants' Motions to Dismiss (ECF Nos. 10, 25, 26, 27, 36) be granted, but that Defendants' requests for an award of costs and fees associated with these motions be denied.

The Report and Recommendation provided that any party could serve and file written objections within fourteen days of being served with a copy of the Report and Recommendation. *See* ECF No. 38, PageID.1108; *see also* 28 U.S.C. § 636(b)(1).

No objections were received. As the Court was preparing to issue an order accepting that recommendation, the Court received a letter from Plaintiffs Brian and Jamie Zimmermann on June 7, 2023. The

Zimmermanns described a pervasive problem with lost mail and undelivered items, and explained that they had not received a copy of the Report and Recommendation by mail. They say that they were only able to obtain a copy recently, and request additional time to file objections.

The Court will therefore extend the deadline for Plaintiffs to object to the Report and Recommendation. Objections, if any, must be made by July 27th.

The Zimmermanns also say that they never received a copy of the Motion to Dismiss filed by Macomb County Prosecutor Eric Smith (ECF No. 36) or Judge Patti's order requiring a response to that motion (ECF No. 37). They further insist that they never received notice that Judge Patti had struck their response to the Motion to Dismiss filed by the Romeo Community School District Defendants (RCSD, Robinson, Arendts, Demas, Young, Rilley, Barrows, Banach, Antoine, and Conner).

For several reasons, these issues do not require a new referral to Judge Patti. Most important, the arguments raised in Smith's motion are substantially the same as the arguments raised in the Motions to Dismiss by Anthony Wickersham (ECF No. 27), Peter Lucido (ECF No. 26), and Scott Labish (ECF No. 25), to which the Zimmermanns did respond. So too are the arguments raised in the Romeo Community Schools District Defendants' motion. Second, Judge Patti acknowledged that it would be inappropriate to grant the motions to dismiss just because the Zimmerman's had not responded and conducted a thorough analysis of

these claims, taking into account the arguments raised by the Zimmermanns in their other responses. Finally, the Zimmermanns now have the opportunity to object to Judge Patti's Report and Recommendation. Those objections may include any conclusions of law that they believe Judge Patti made incorrectly.

Accordingly, it is hereby **ORDERED** that Plaintiffs shall have additional time to file objections to Judge Patti's Report and Recommendation of May 12, 2023. Objections, if any, must be filed by no later than July 27, 2023. Responses, if any, may be made fourteen days thereafter. If no Objections are filed, the Report and Recommendation will be accepted.

IT IS SO ORDERED this 6th day of July, 2023.

BY THE COURT:

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge